

104TH CONGRESS  
1ST SESSION

# H. R. 2211

To establish certain requirements with respect to solid waste and hazardous waste incinerators, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

AUGUST 4, 1995

Mr. RICHARDSON (for himself, Mr. TOWNS, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To establish certain requirements with respect to solid waste and hazardous waste incinerators, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Dioxin Reduction and  
5       Incinerator Alternatives Act of 1995”.

6       **SEC. 2. MORATORIUM ON MUNICIPAL SOLID WASTE INCIN-**  
7       **ERATORS.**

8       (a) AMENDMENT TO SUBTITLE D.—Subtitle D of the  
9       Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is  
10      amended by adding at the end the following new section:

1 **“SEC. 4011. MUNICIPAL SOLID WASTE INCINERATORS.**

2 “(a) MORATORIUM.—No municipal solid waste incin-  
3 erator may be issued a permit for construction or expan-  
4 sion until the year 2001.

5 “(b) REQUIREMENTS.—After December 31, 2000, no  
6 Federal agency, State or local government, or other waste  
7 management jurisdiction may issue a permit (including a  
8 permit under section 129(e) of the Clean Air Act) or other  
9 prior approval for the construction or expansion of a mu-  
10 nicipal solid waste incinerator, unless the applicant for the  
11 permit or other approval demonstrates, and the State  
12 finds, that the following requirements are met:

13 “(1) The applicant shall conduct a waste com-  
14 position analysis of the solid waste generated in a  
15 year within the area to be served by the facility and  
16 shall demonstrate that it will continue to conduct  
17 such a waste composition analysis annually. Each  
18 entity from which the facility plans to accept waste  
19 also shall conduct a waste composition analysis of  
20 the solid waste generated in a year by the persons  
21 from whom the entity collects waste and shall dem-  
22 onstrate that it will continue to conduct such a  
23 waste composition analysis annually. Any such waste  
24 composition analysis shall be conducted in compli-  
25 ance with the regulations promulgated under sub-  
26 section (c).

1           “(2) Each entity from which the facility plans  
2           to accept waste shall demonstrate that it has di-  
3           verted during calendar year 2000, and will continue  
4           to divert for each subsequent year, to waste manage-  
5           ment methods other than incineration and landfilling  
6           the following percentages of the total amount of  
7           each of the following materials generated annually  
8           by the persons from whom the entity collects waste:

9                   “(A) Glass, 65 percent.

10                   “(B) Newspapers, 65 percent.

11                   “(C) Other paper, 65 percent.

12                   “(D) Metals, 80 percent.

13                   “(E) Plastic containers, 50 percent.

14                   “(F) Yard waste, 90 percent.

15                   “(G) Food waste, 10 percent.

16           Each such entity shall also demonstrate that, during  
17           calendar years 1998 and 1999, it has diverted to  
18           such waste management methods an interim diver-  
19           sion percentage established by the Administrator (at  
20           least 1/2) of the percentages of the materials speci-  
21           fied in subparagraphs (A) through (G).

22           “(3) The applicant shall demonstrate that—

23                   “(A) the facility will not interfere with  
24                   maintaining the diversion rates set forth in

1 paragraph (2) for each entity from which the  
2 facility plans to accept waste; and

3 “(B) in any case in which a diversion rate  
4 by an entity from which the facility plans to ac-  
5 cept waste is higher than the rate set forth in  
6 paragraph (2), the facility will not interfere  
7 with maintaining the higher diversion rate.

8 “(4) The applicant shall demonstrate that it is  
9 not feasible to manage the remaining solid waste  
10 through source reduction, reuse, or recycling.

11 “(5) The applicant shall demonstrate that the  
12 facility will not adversely affect the environment or  
13 human health as a consequence of—

14 “(A) exposure to air emissions or inciner-  
15 ator ash through inhalation;

16 “(B) ingestion of food contaminated by air  
17 emissions or incinerator ash as a consequence  
18 of incorporation of such ash or emissions into  
19 the food chain;

20 “(C) ingestion of potable water or aquatic  
21 organisms contaminated by surface water dis-  
22 charges, surface runoff, leaching, or percolation  
23 of air emissions or incinerator ash into ground  
24 water or surface water;

1           “(D) ingestion or inhalation of soil par-  
2           ticles contaminated with air emissions or incin-  
3           erator ash; or

4           “(E) dermal contact with air emissions or  
5           incinerator ash.

6           “(6) The applicant shall demonstrate that the  
7           facility is not situated in a nonattainment area (as  
8           that term is used in part D of title I of the Clean  
9           Air Act (42 U.S.C. 7501 et seq.)).

10          “(7) The applicant shall demonstrate that the  
11          facility will not harm the local economy, including a  
12          demonstration that it will not negatively affect prop-  
13          erty values.

14          “(8) The applicant shall demonstrate that the  
15          full cost of the facility over its entire life, including  
16          capital costs, debt service, liability insurance, reme-  
17          diation, and long-term operation and maintenance  
18          expenses, will be less costly than reducing, recycling,  
19          or composting waste.

20          “(9) The Federal agency, State or local govern-  
21          ment, or other waste management jurisdiction shall  
22          conduct a full public participation process, including  
23          public hearings, to address the proposed facility. As  
24          part of the process, the applicant shall provide to  
25          local community groups concerned about the project

1 a technical assistance grant of at least \$50,000. The  
2 applicant shall renew the grant every six months  
3 after the initial grant is made until the date on  
4 which final action is completed by each Federal  
5 agency, State or local government, or other waste  
6 management jurisdiction on each permit for con-  
7 struction or expansion of the facility.

8 “(10) The proposed construction or expansion  
9 must be approved by the unit of local government in  
10 whose boundaries the facility would be sited.

11 “(11) The applicant shall demonstrate the fol-  
12 lowing with respect to the applicant, any firm en-  
13 gaged to operate the facility, the parent firm of the  
14 applicant and any firm engaged to operate the facil-  
15 ity, and any firms controlled by the parent firm or  
16 the operating firm or the applicant:

17 “(A) Each such entity is in compliance  
18 with Federal and State environmental and pub-  
19 lic health statutes and regulations.

20 “(B) Each such entity has paid all out-  
21 standing fines or penalties for violations of such  
22 statutes or regulations.

23 “(C) Each such entity has made available  
24 to the public at the site, and at local public li-  
25 braries in the jurisdiction where the facility

1 would be sited, a disclosure statement. The dis-  
2 closure statement shall include the following in-  
3 formation with respect to the entity:

4 “(i) A list of each conviction of fraud  
5 or any criminal offense during the previous  
6 10 years in connection with obtaining or  
7 attempting to obtain a contract.

8 “(ii) A list of each conviction of a vio-  
9 lation of a State or Federal antitrust law  
10 during the previous 10 years, including  
11 convictions relating to unlawful price-fix-  
12 ing, allocation of customers among com-  
13 petitors, and bid-rigging.

14 “(iii) A list of each citation for a per-  
15 mit violation under a Federal, State, or  
16 local environmental statute during the pre-  
17 vious 5 years.

18 “(iv) A list of each citation for failure  
19 to conduct proper cleanup, reclamation, or  
20 closure of a site or forfeiture of a bond for  
21 such a failure during the previous 5 years.

22 “(12) The applicant shall complete, after public  
23 notice and comment, an environmental impact state-  
24 ment. Such statement shall be conducted in the  
25 same manner and in conformance with the same

1 standards required for environmental impact state-  
2 ments under the National Environmental Policy Act  
3 (42 U.S.C. 4321 et seq.) and must be approved by  
4 the State.

5 “(13) The applicant shall demonstrate that the  
6 facility is not located within 1½ miles of any school,  
7 hospital, church, synagogue, mosque, prison, body of  
8 surface water used as a drinking water source, or  
9 site designated by any Federal or State agency as a  
10 recharge zone for an aquifer that serves as a drink-  
11 ing water source.

12 “(14) The State in which the incinerator is lo-  
13 cated shall complete, prior to 1998, an incinerator  
14 capacity study which makes a determination of each  
15 of the following:

16 “(A) The baseline capacity within the  
17 State and after all recyclables, compostables  
18 and noncombustibles are diverted from the  
19 waste stream.

20 “(B) The baseline capacity within the En-  
21 vironmental Protection Agency Region and  
22 after diversion of list in I,2),a).

23 “(C) The baseline capacity for landfills  
24 after diversion of list in I,2),a).



1                   “(D) Potential health impacts of additional  
2                   incinerators.

3                   “(E) Any disproportionate impact on mi-  
4                   nority and low-income communities of addi-  
5                   tional incinerators.

6                   States shall have the authority to levy a fee from ex-  
7                   isting incinerator and landfills to fund studies.

8                   “(15) The Administrator has conducted, during  
9                   1998 and 1999, a national capacity study based on  
10                  the information contained in State studies conducted  
11                  under paragraph (14).

12                  “(16) The applicant shall demonstrate that the  
13                  location of the facility will not have a disproportion-  
14                  ate impact on minority or low-income communities.

15                  “(c) WASTE COMPOSITION ANALYSIS REGULA-  
16                  TIONS.—(1) Not later than January 1, 1998, the Adminis-  
17                  trator shall promulgate regulations containing standards  
18                  for the conduct of waste composition analyses under sub-  
19                  section (b)(1). In the regulations, the Administrator shall  
20                  define the term ‘waste composition analysis’ to mean—

21                  “(A) an identification of all materials that fall  
22                  within standard categories and subcategories of ma-  
23                  terials set forth by the Administrator, including, at  
24                  a minimum, glass, newspapers, other paper, metals,  
25                  plastics, yard waste, and food waste; and

1           “(B) a measurement of the quantities of those  
2           materials, using a method established by the Admin-  
3           istrator.

4           “(2) The regulations also shall include procedures  
5           for—

6           “(A) certification of the accuracy of a waste  
7           composition analysis by the entity carrying out the  
8           analysis; and

9           “(B) verification by the Administrator of the  
10          accuracy of a waste composition analysis.

11          “(d) AUTHORITY TO IMPOSE HIGHER DIVERSION  
12          RATES.—The Administrator shall assess periodically, but  
13          not less often than at least once every 3 years, whether  
14          the achievement of higher diversion rates under subsection  
15          (b)(2) is feasible. If the Administrator concludes that a  
16          higher rate is feasible for one or more materials listed in  
17          subsection (b)(2), the Administrator may by rule require  
18          such higher rate for the material under such subsection.

19          “(e) DEFINITIONS.—For purposes of this section, the  
20          following definitions apply:

21                 “(1) The term ‘municipal solid waste inciner-  
22                 ator’ means a distinct operating unit of any facility  
23                 which combusts any solid waste material from com-  
24                 mercial or industrial establishments or the general  
25                 public (including single and multiple residences, ho-

1       tels, and motels). Such term does not include (i) in-  
2       cinerators or other units required to have a permit  
3       under section 3005; (ii) materials recovery facilities  
4       (including primary or secondary smelters) which  
5       combust waste for the primary purpose of recovering  
6       metals; (iii) qualifying small power production facili-  
7       ties, as defined in section 3(17)(C) of the Federal  
8       Power Act (16 U.S.C. 769(17)(C)), which burn ho-  
9       mogeneous waste (other than refuse-derived fuel) for  
10      the production of electric energy; (iv) air curtain in-  
11      cinerators provided that such incinerators only burn  
12      wood wastes, yard wastes, and clean lumber and  
13      that such air curtain incinerators comply with opac-  
14      ity limitations to be established by the Administrator  
15      by rule; or (v) incinerators or other units that burn  
16      only infectious medical waste.

17           “(2) The term ‘waste management jurisdiction’  
18      means a governmental entity which issues permits  
19      for construction or expansion of municipal solid  
20      waste incinerators within its boundaries.

21           “(f) REGULATIONS.—The Administrator shall pro-  
22      mulgate regulations to carry out this section.”.

23           (b) TECHNICAL AMENDMENT.—The table of contents  
24      for subtitle D of such Act (contained in section 1001 of

1 such Act) is amended by adding at the end the following  
2 new item:

“Sec. 4011. Municipal solid waste incinerators.”.

3 **SEC. 3. MUNICIPAL SOLID WASTE INCINERATOR ASH MAN-**  
4 **AGEMENT.**

5 Section 4003(a) of the Solid Waste Disposal Act (42  
6 U.S.C. 6921) is amended by adding at the end the follow-  
7 ing:

8 “(6) ASH FROM MUNICIPAL SOLID WASTE INCINER-  
9 ATORS.—(A) The plan shall insure that ash from munici-  
10 pal solid waste incinerators is managed in a monofill that  
11 contains only ash from such incinerators and that in-  
12 cludes, at a minimum, the following design components:

13 “(i) A double liner system designed, operated,  
14 and constructed of materials to prevent the migra-  
15 tion of any constituent into the liners during the pe-  
16 riod such facility remains in operation (including  
17 any postclosure monitoring period). The double liner  
18 system shall consist of one flexible membrane liner  
19 and one composite liner, with a leachate collection  
20 system above and between such liners. For purposes  
21 of this subsection, the term ‘flexible membrane liner’  
22 means a liner that consists of high density poly-  
23 ethylene or equivalent material that is at least 60  
24 mils thick and a layer of recompacted clay or other  
25 natural materials at least 3 feet thick with hydraulic

1 conductivity of no more than  $1 \times 10^{-7}$  centimeter per  
2 second.

3 “(ii) Upon closure, a final composite cover sys-  
4 tem designed, operated, and constructed of materials  
5 to prevent the infiltration of precipitation into such  
6 cover during any closure or post-closure monitoring  
7 period. For purposes of this section, the term ‘com-  
8 posite cover’ means a cover which consists of high  
9 density polyethylene or equivalent material that is at  
10 least 40 mils thick and a layer of recompact clay  
11 or other natural materials at least 2 feet thick with  
12 hydraulic conductivity of no more than  $1 \times 10^{-7}$  cen-  
13 timeter per second.

14 “(B) Municipal solid waste incinerators in existence  
15 on the date of the enactment of the Pollution Prevention  
16 and Incineration Alternatives Act of 1995 shall meet the  
17 requirements of clause (i) not later than 3 years after such  
18 date of enactment.

19 “(C) As of the date of the enactment of the Pollution  
20 Prevention and Incineration Alternatives Act of 1995, the  
21 utilization of municipal solid waste incinerator ash for any  
22 purpose is prohibited.

23 “(D) For purposes of this paragraph, the following  
24 definitions apply:

1           “(i) The term ‘ash from municipal solid waste  
2           incinerators’ means the residues resulting from the  
3           combustion of municipal solid waste in a municipal  
4           solid waste incinerator.

5           “(ii) The term ‘municipal solid waste inciner-  
6           ator’ means a distinct operating unit of any facility  
7           which combusts any solid waste material from com-  
8           mercial or industrial establishments or the general  
9           public (including single and multiple residences, ho-  
10          tels, and motels). Such term does not include (I) in-  
11          cinerators or other units required to have a permit  
12          under section 3005; (II) materials recovery facilities  
13          (including primary or secondary smelters) which  
14          combust waste for the primary purpose of recovering  
15          metals; (III) qualifying small power production fa-  
16          cilities, as defined in section 3(17)(C) of the Federal  
17          Power Act (16 U.S.C. 769(17)(C)), which burn ho-  
18          mogeneous waste (other than refuse-derived fuel) for  
19          the production of electric energy; (IV) air curtain in-  
20          cinerators provided that such incinerators only burn  
21          wood wastes, yard wastes and clean lumber and that  
22          such air curtain incinerators comply with opacity  
23          limitations to be established by the Administrator by  
24          rule; or (V) incinerators or other units that burn  
25          only infectious medical waste.”.

1 **SEC. 4. PROHIBITION ON INCINERATION OF CERTAIN**  
2 **MATERIALS.**

3 (a) PROHIBITION.—Section 3001 of the Solid Waste  
4 Disposal Act (42 U.S.C. 6921) is further amended by add-  
5 ing at the end the following new subsection:

6 “(k) PROHIBITION ON INCINERATION OF CERTAIN  
7 MATERIALS.—The following materials and products may  
8 not be incinerated in a municipal solid waste incinerator:

9 “(1) Household hazardous waste.

10 “(2) Batteries.

11 “(3) Chlorinated plastics.

12 “(4) Consumer electronics.

13 “(5) Yard waste.”.

14 (b) EFFECTIVE DATE.—Subsection (k) of section  
15 3001 of the Solid Waste Disposal Act (as added by sub-  
16 section (a)) shall take effect 18 months after the date of  
17 the enactment of this Act.

18 **SEC. 5. REQUIREMENTS RELATING TO HAZARDOUS WASTE**  
19 **INCINERATORS.**

20 (a) AMENDMENT TO SUBTITLE C.—Subtitle C of the  
21 Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is  
22 amended by adding at the end the following new section:

23 **“SEC. 3021. HAZARDOUS WASTE INCINERATORS.**

24 “(a) GENERAL REQUIREMENTS.—Effective on the  
25 date of the enactment of the Pollution Prevention and In-  
26 cineration Alternatives Act of 1995, no Federal agency,

1 State or local government, or any other waste manage-  
2 ment jurisdiction may issue a permit or other prior ap-  
3 proval for the construction or expansion of a hazardous  
4 waste incinerator unless the following requirements are  
5 met:

6           “(1) The applicant for the permit or other prior  
7 approval, and all generators of waste expected to be  
8 incinerated at the facility, shall conduct waste com-  
9 position analyses that identify and quantify all the  
10 waste expected to be incinerated at the facility, in-  
11 cluding all toxic or hazardous substances in the  
12 waste.

13           “(2) The applicant shall demonstrate that the  
14 toxics use reduction requirements of subsection (b)  
15 have been met.

16           “(3) The applicant shall demonstrate that the  
17 facility will not interfere with, divert resources from,  
18 or otherwise serve as a disincentive to, aggressive  
19 implementation of the toxics use reduction require-  
20 ments of subsection (b).

21           “(4) The applicant shall demonstrate that the  
22 facility will not adversely affect the environment or  
23 human health as a consequence of—

24                   “(A) exposure to air emissions or inciner-  
25 ator ash through inhalation;



1           “(B) ingestion of food contaminated by air  
2           emissions or incinerator ash as a consequence  
3           of incorporation of such ash or emissions into  
4           the food chain;

5           “(C) ingestion of potable water or aquatic  
6           organisms contaminated by surface water dis-  
7           charges, surface runoff, leaching, or percolation  
8           of air emissions or incinerator ash into ground  
9           water or surface water;

10          “(D) ingestion or inhalation of soil par-  
11          ticles contaminated with air emissions or incin-  
12          erator ash; or

13          “(E) dermal contact with air emissions or  
14          incinerator ash.

15          “(5) The applicant shall demonstrate that the  
16          facility will not harm the local economy, including a  
17          demonstration that it will not negatively affect prop-  
18          erty values.

19          “(6) The applicant shall demonstrate that there  
20          is no safer disposal or treatment technology available  
21          for any of the wastes.

22          “(7) The Federal agency, State or local govern-  
23          ment, or other waste management jurisdiction shall  
24          conduct a full public participation process, including  
25          public hearings, to address the proposed facility. As

1 part of the process, the applicant shall provide to  
2 local community groups concerned about the project  
3 a technical assistance grant of at least \$50,000. The  
4 applicant shall renew the grant every six months  
5 after the initial grant is made until the date final ac-  
6 tion is completed by each Federal agency, State or  
7 local government, or other waste management juris-  
8 diction on each permit for construction or expansion  
9 of the facility.

10 “(8) The proposed construction or expansion  
11 must be approved by the unit of local government in  
12 whose boundaries the facility would be sited.

13 “(9) The applicant shall demonstrate the fol-  
14 lowing with respect to the applicant, any firm en-  
15 gaged to operate the facility, the parent firm of the  
16 applicant and any firm engaged to operate the facil-  
17 ity, and any firms controlled by the parent firm or  
18 the operating firm or the applicant:

19 “(A) Each such entity is in compliance  
20 with Federal and State environmental and pub-  
21 lic health statutes and regulations.

22 “(B) Each such entity has paid all out-  
23 standing fines or penalties for violations of such  
24 statutes or regulations.

1           “(C) Each such entity has made available  
2           to the public at the site, and at local public li-  
3           braries in the jurisdiction where the facility  
4           would be sited, a disclosure statement. The dis-  
5           closure statement shall include the following in-  
6           formation with respect to the entity:

7                   “(i) A list of each conviction of fraud  
8                   or any criminal offense during the previous  
9                   10 years in connection with obtaining or  
10                  attempting to obtain a contract.

11                  “(ii) A list of each conviction of a vio-  
12                  lation of a State or Federal anti-trust law  
13                  during the previous 10 years, including  
14                  convictions relating to unlawful price-fix-  
15                  ing, allocation of customers among com-  
16                  petitors, and bid-rigging.

17                  “(iii) A list of each citation for a per-  
18                  mit violation under a Federal, State, or  
19                  local environmental statute during the pre-  
20                  vious 5 years.

21                  “(iv) A list of each citation for failure  
22                  to conduct proper cleanup, reclamation, or  
23                  closure of a site or forfeiture of a bond for  
24                  such a failure during the previous 5 years.

1           “(10) The applicant shall complete, after public  
2       notice and comment, an environmental impact state-  
3       ment. Such statement shall be conducted in the  
4       same manner and in conformance with the same  
5       standards required for environmental impact state-  
6       ments under the National Environmental Policy Act  
7       (42 U.S.C. 4321 et seq.) and must be approved by  
8       the State.

9           “(11) The applicant shall demonstrate that the  
10      facility is not located within 1½ miles of any school,  
11      hospital, church, synagogue, mosque, prison, body of  
12      surface water used as a drinking water source, or  
13      site designated by any Federal or State agency as a  
14      recharge zone for an aquifer that serves as a drink-  
15      ing water source.

16          “(12) The applicant shall demonstrate that the  
17      location of the facility will not have a disproportion-  
18      ate impact on minority or low-income communities.

19          “(b) TOXICS USE REDUCTION REQUIREMENTS.—(1)  
20      For purposes of subsection (a)(2), an applicant for a per-  
21      mit, and each generator of waste expected to be inciner-  
22      ated at the facility, shall demonstrate that each such gen-  
23      erator has completed and made available to the public, and  
24      intends to complete and make available each subsequent  
25      year, a report on the use of toxic or hazardous substances

1 at the generator's facility and the reduction of the use of  
2 such substances during the preceding year at the genera-  
3 tor's facility. The report shall include, at a minimum, the  
4 following:

5           “(A) A materials accounting for each toxic or  
6           hazardous substance used in each production unit of  
7           the generator's facility and for the facility as a  
8           whole.

9           “(B) An evaluation of options for reducing the  
10          use of toxic and hazardous substances in each pro-  
11          duction unit of the generator's facility.

12          “(C) Two- and five-year goals, by toxic and  
13          hazardous substance, for reducing the use of each  
14          substance in each production unit of the generator's  
15          facility and in the facility as a whole.

16          “(D) A schedule for implementing the goals re-  
17          ferred to in subparagraph (C).

18          “(E) A statement signed by an independent ex-  
19          pert certifying that, to the expert's best knowledge  
20          and belief, the report prepared by the generator is  
21          true, complete, accurate, and prepared under a prop-  
22          er data accounting and planning system.

23          “(2) For purposes of subsection (a)(2), an applicant  
24          for a permit shall demonstrate that the State in which  
25          the facility is located, and each State in which generators

1 of waste expected to be incinerated at the facility are lo-  
2 cated, has established and is implementing a toxics use  
3 reduction program that includes, at a minimum, the fol-  
4 lowing requirements:

5           “(A) The program must be designed to achieve,  
6           within 5 years after the date the program is estab-  
7           lished, at least a 50 percent reduction, from the base  
8           year, in the amount of toxic or hazardous substances  
9           entering the hazardous waste stream prior to treat-  
10          ment, recycling, handling, disposal, or release.

11          “(B) The program must require generators of  
12          hazardous waste to develop a plan for reducing their  
13          toxic or hazardous substance use.

14          “(C) The program must require each generator  
15          of hazardous waste to publicly report on materials  
16          accounting for each production unit of the genera-  
17          tor’s facility and the facility as a whole.

18          “(c) APPLICABILITY.—This section applies to any fa-  
19          cility that burns hazardous waste, including cement kilns  
20          and other industrial furnaces and boilers.

21          “(d) DEFINITIONS.—For purposes of this section, the  
22          following definitions apply:

23               “(1) The term ‘base year’ means any calendar  
24               year, not earlier than 1991, for which a State has  
25               complete and adequate information on the genera-

1       tion of toxic or hazardous substances entering the  
2       hazardous waste stream, prior to treatment, recy-  
3       cling, handling, disposal, or release.

4           “(2) The term ‘toxic or hazardous substance’  
5       means—

6           “(A) a substance on the list described in  
7       section 313(c) of the Emergency Planning and  
8       Community Right-To-Know Act of 1986 (42  
9       U.S.C. 11023(c));

10          “(B) any chemical for which a Federal or  
11       State law requires reporting similar to section  
12       313 of such Act but which is not otherwise cov-  
13       ered under subparagraph (A);

14          “(C) any hazardous constituent of hazard-  
15       ous wastes identified under regulations promul-  
16       gated under this subtitle and listed in sections  
17       261.33(e), 261.33(f), and Appendix VIII of  
18       part 261 of title 40 of the Code of Federal Reg-  
19       ulations; and

20          “(D) any priority pollutant listed under  
21       regulations relating to steam electric power  
22       point source pollutants under the Federal  
23       Water Pollution Control Act (33 U.S.C. 1311 et  
24       seq.) (as listed in Appendix A of section 423 of  
25       title 40 of the Code of Federal Regulations).

1           “(3)(A) The term ‘toxics use reduction’ means  
2           any change in a production process or activity, raw  
3           material, or product, that reduces or eliminates the  
4           use of any toxic or hazardous substance, or the  
5           amount of any toxic or hazardous substance entering  
6           any waste stream or otherwise released to the envi-  
7           ronment (including fugitive emissions and hazardous  
8           secondary materials), prior to recycling, treatment,  
9           disposal, handling, or release, without creating or in-  
10          creasing risks to the public health, workers, consum-  
11          ers, or the environment. The term includes produc-  
12          tion equipment or technology modifications, reformu-  
13          lation or redesign of products, substitution of raw  
14          materials, changes in production processes or proce-  
15          dures, and improvements in housekeeping, mainte-  
16          nance, training, or inventory control.

17          “(B) The term does not include (i) any waste  
18          management or pollution control activity, or any  
19          other practice which alters the physical, chemical, or  
20          biological characteristics, or the volume, of a toxic or  
21          hazardous substance through a process or activity  
22          which itself is not integral to and necessary for the  
23          production of a product or the providing of a service;  
24          (ii) recycling without the use of in-process, in-line, or  
25          closed-loop recycling methods according to standard



1        engineering practices and that is not integral to and  
 2        necessary for the production of the product within  
 3        the original production unit; or (iii) the use of a by-  
 4        product as hazardous secondary material, as a prod-  
 5        uct, or as a constituent of a product.”.

6        (b) TECHNICAL AMENDMENT.—The table of contents  
 7        for subtitle C of such Act (contained in section 1001 of  
 8        such Act) is amended by adding at the end the following  
 9        new item:

“Sec. 3021. Hazardous waste incinerators.”.



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